

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

**LARRY STEPHENS, )  
Plaintiff, )  
v. )  
JO ANNE B. BARNHART, )  
Commissioner of Social Security, )  
Defendant. )**

**1:04CV00221**

**O-R-D-E-R**

The Recommendation of the United States Magistrate Judge was filed with the court in accordance with 28 U.S.C. § 636(b) and, on May 6, 2005, was served on the parties in this action. The Commissioner objected to the Recommendation.

The court has appropriately reviewed the portions of the Magistrate Judge's report to which objection was made and has made a de novo determination which is in accord with the Magistrate Judge's report. The court therefore adopts the Magistrate Judge's Recommendation

**IT IS THEREFORE ORDERED** that Plaintiff's motion for judgment [Pleading No. 6] be **GRANTED**, that the Commissioner's motion for judgment on the pleadings [Pleading No. 8] be **DENIED**, and that this action be **REMANDED** to the

Commissioner. A judgment dismissing this action will be entered contemporaneously with this Order.

  
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United States District Judge

Date: September 20, 2005